The Solicitors' Journal

VOL. LXXVII. **Saturday, May 6, 1933.** No. 18

Current Topics.

Lord Hanworth's Committee: The Recommendations of the Solicitors' Managing Clerks' Association.

THE above recommendations, which we print in full on another page, show on the face of them that those who have prepared them have performed their task with great thoroughness. The suggestions made embrace not only such matters as the constitution of the Supreme Court and the procedure affecting summary judgment, but also such details as the place of hearing for certain summonses. Several of the recommendations aim at a reduction of the number of stages which litigants in the High Court at present have to pass through. The delay and expense of the present system are, we may observe, not only a source of irritation to the *bonâ fide* litigant, but are also exploited by the unscrupulous, who as plaintiffs are enabled to indulge in a little sabre-rattling by issuing a 30s. writ without any intention of pursuing the matter further, and as defendants are given time to make suitable dispositions to meet all possible contingencies. For these reasons we consider the proposals as to expediting summary procedure particularly worthy of consideration; and we may perhaps be allowed to add to Recommendation No. 4 a suggestion that Masters should more frequently send Ord. XIV affidavits to the Director of Public Prosecutions. One recommendation, as to references to payment into court in pleadings (No. 8) is undoubtedly a useful one; but does it affect the question of delay and expense of litigation? While No. 19, which deals with the costs of Revenue appeals by the Crown, seems to involve a question of constitutional law. The defects in the present circuit system are admirably summarised, and some of the proposed remedies will meet with universal approval. The first, however, perhaps ignores what is commonly called "publicity value," a value never easily measured; the elimination of smaller towns might well effect an immediate saving, but this might be wiped out by the loss occasioned by so modifying the time-honoured system of "delivering justice at the door." The Recommendations will, we feel sure, be given the most careful consideration, coming as they do from a body representative of those most intimately and practically concerned with the inner workings of the Law and, whatever may be their result, we feel that the thanks of the profession generally are due to those members of the Association responsible for their compilation.

Abuse of Rights.

To the current number of the *Cambridge Law Journal* Professor GUTTERIDGE contributes an instructive article on this subject, illustrating his thesis by a learned examination of the provisions of several Continental codes which deal with acts done on a person's own property with the sole object of injuring or annoying his neighbour. Beginning with a consideration of the absolutist view of rights taken by English law as summed up by LORD MACNAGHTEN in trenchant language when he said in *Bradford Corporation* v. *Pickles* [1895] A.C. 587, that although the defendant's conduct in wilfully depriving his fellow townsmen of a water supply might be called "shocking to a moral philosopher," there was nothing in the law of England which could stop him from being as "churlish, selfish and grasping" as it was possible for a man to be—a conclusion which, as Professor GUTTERIDGE points out, can scarcely be regarded with satisfaction by any good citizen, a conclusion, moreover, which finds no support in the legal systems of many of our Continental neighbours. In a series of cases, notably in that known popularly as *Affaire Clément-Bayard*, the French courts have decided that where the dominant motive of an act which in a sense might be regarded as within the strict legal right of the doer, is the infliction of harm upon another or his property, they will restrain its exercise. The like principle has been applied where an employer has refused to engage a trade unionist where the motive was to damage the trade union, and, conversely, where a trade union has blacklisted an employer from a purely vindictive motive. The German Bürgerliches Gesetzbuch, by Art. 226, provides that "the exercise of a right which can have no purpose except the infliction of injury on another is unlawful," which, if it may not always have proved as effective as its authors anticipated it would be, is a valuable reminder that acts prompted solely by spite are not regarded with favour. The Swiss Code says that "the law does not protect the manifest abuse of a right," which again is at least a theoretic protest against acts *contra bonos mores*. A close examination of these and other provisions of foreign codes leads Professor GUTTERIDGE to observe that, while objections may be urged against the adoption in all its extent of the principle embodied in those provisions, the law should be made strong enough to prevent a repetition of such forms of annoyance and spite as were illustrated by the conduct of those complained of in *Bradford Corporation* v. *Pickles* and *Affaire Clément-Bayard*. The wheels of reform

move slowly, and it may be some time before the suggestion of the learned Professor finds acceptance by the Legislature, but coming as it does from him, and following proposals very similar made by Mr. A. L. GOODHART in "Essays in Jurisprudence and the Common Law," and by Mr. C. K. ALLEN in "Legal Duties," it is to be welcomed, and it would, if adopted, make our law approximate more nearly to that ideal code which should embody the principle of the golden rule.

The Recovery of *Ultra Vires* Loans.

THE equitable doctrine of subrogation, under which a person who has enabled another to pay his just debts, is entitled to be placed in the debtor's shoes and to be indemnified, although he may be debarred from recovering the money at law, is one of those useful doctrines which, when it arises, which is not very often, illustrates the maxim that equity will not allow a wrong to be without a remedy. It has recently been applied by EVE, J., in *In re Airedale Co-operative Worsted Manufacturing Society Ltd.* (reported *ante*, p. 267). Co-operative societies, it seems, give each other as much business as they can, and as long ago as 1882 the Congleton Co-operative Society purchased ten £1 shares in the Airedale Society, from whom it regularly purchased goods. An agreement was then entered into between the two societies that any dividends and interest on these shares and any bonuses on purchases made by the Congleton Society should not be paid out but retained by the Airedale Society as loans. The agreement was extended to further shares acquired in 1891. When the original agreement was made, by resolutions of the respective committees of management, it was perfectly valid according to the rules, but in 1884 the Airedale Society adopted a new set of rules, which required a bond or security with a signed agreement in writing to be given for loans, and the result was that this course of dealing became *ultra vires* the Airedale Society. In 1931 the Airedale Society found that it could not weather the storm in the textile industry and went into voluntary liquidation. The Congleton Society then thought of its loans which, by that time, amounted to £523, but the liquidators rejected the creditors' proof, among others, on the ground that the money had been borrowed *ultra vires* the Airedale Society. It was quite clear that so much of the money as had been borrowed since 1884 could not be recovered at law in an action for money had and received as the loans were not contracted within the rules of the society. But as there was undisputed evidence that the money so borrowed was used by the Airedale Society in payment of its ordinary debts, and that it could not in fact have carried on without the benefit of these loans, EVE, J., held that the Congleton Society was entitled, on the doctrine of subrogation, to rank as creditors in the liquidation for the full amount. It was understood that the decision governed other claims running into four figures. There has been considerable judicial dispute as to the true legal theory of the doctrine, which Lord DUNEDIN has traced back to Roman law, and LINDLEY, M.R., in *In re Wrexham, Mold & Connah's Quay Railway* [1899] 1 Ch., at p. 448, differed entirely from the reasons given by FRY, L.J., in *Baroness Wenlock* v. *River Dee Co.*, 19 Q.B.D. 155, while approving the decision of the court in that celebrated case. EVE, J., rested his decision on the principle as stated by Lord PARKER OF WADDINGTON, in *Sinclair* v. *Brougham* [1914] A.C. 398, at p. 440 (the *Birkbeck Bank Case*), where he said that it was well settled that if money, though borrowed *ultra vires*, was applied in paying off legitimate indebtness of a company or association (whether incurred before or after the date of the borrowing) the lenders were entitled to rank as creditors of the company to the extent to which the money was so applied.

Appeals from Courts of Summary Jurisdiction.

FURTHER evidence of official determination to provide full investigation of popular demands for reforms in the judicial system is to be found in the Report of the Committee on Appeals from Decisions of Courts of Summary Jurisdiction, published on 27th April. The Committee emphasise their recommendation that the basis for the constitution of the court by which appeals are heard should be the same as that set out in s. 32 of the Rating and Valuation Act, 1925, for the constitution of the court for hearing rating appeals. It is further suggested that in a county the quarter sessions court should consist of no fewer than three nor more than five justices, having special qualifications, including judicial or other legal experience. With regard to the suggestion that solicitors should have a statutory right of audience at appeals, the Committee state that if their view is accepted they understand that the position will be that the court, in its discretion, will be able by standing orders to determine whether or not it will give audience to solicitors. The Report also contains a proposal that the Poor Prisoners Defence Act, 1930, should be extended to appeals in criminal (but not in non-criminal) cases to quarter sessions, and that legal aid should be available to poor appellants and respondents, if the interests of justice so require by reason of the character of the charge or of exceptional circumstances. The onus should be placed on the appellant of satisfying the court where the appeal is against sentence, and he should state in his notice of appeal the grounds on which he relies. The Committee are also of the opinion that the recognizance should be retained so as to be conditioned on the appearance of the appellant at quarter sessions and the due prosecution of the appeal. The condition as to costs should be eliminated, with the natural consequence of a considerable increase in the number of appeals. In the event of a large number of unjustifiable appeals being brought the matter should be reconsidered with a view to restrictions being imposed. In fixing the amount of the recognizances the justices should have regard to the purposes of the recognizance and the means of the appellant. It is also suggested that quarter sessions should be given specific power to include in their award to a successful appellant the costs of the hearing before the justices, and should have a discretion to award as costs a sum less than the amount of the other party's taxed costs, and in determining the amount of the sum so ordered, the means of the appellant and respondent should be taken into consideration. The Report provides a comprehensive survey of a large field of judicial administration from the reformers' point of view, and it is to be hoped that it will not be long before the salutary changes projected by the Committee will receive the sanction of legislative approval.

Shorthand Writers in the Courts.

ALL those whose business takes them to the courts with any frequency have probably noticed that the shorthand writer pursues his avocation under difficult, and often unjustifiably difficult, conditions. Speaking at the annual dinner of the members of the Institute of Shorthand Writers recently, EVE, J., said that, compared with the comfortable conditions which he enjoyed in the Law Courts, the shorthand writer had to work in circumstances which constituted gross overcrowding. It was a perfect marvel to him how the shorthand writers did their work with such accuracy, and much could be done to promote their comfort. No one should be allowed to stand between counsel and witness, and the shorthand writer ought always to be near the witness-box. His lordship added that none who had anything to do with the administration of the law could fail to appreciate the assistance of shorthand writers. We are indebted to *The Times* for the foregoing report of the learned judge's words. It will be generally agreed that the work of a shorthand writer, whether considered as an enormous convenience, amounting in some cases to a practical necessity, or merely as a time and money-saving factor, is such as to invite, if not to demand, conditions as favourable as circumstances permit for its performance.

Criminal Law and Practice.

CUSTOMS AND EXCISE PENALTIES.

THERE are special provisions relating to penalties imposed in courts of summary jurisdiction for offences against the Revenue, with which provisions practitioners in those courts do not generally seem to be acquainted.

Section 218 of the Customs Consolidation Act, 1876, speaks of " . . . penalties . . . incurred under or imposed by the Customs Acts," and enacts that in any proceedings for such penalties the fact that the duties of customs have been secured by bond or otherwise shall not be pleaded or made use of in answer to or in stay of such proceedings.

The " Customs Acts " include the Act cited and all or any other Acts or Act relating to the Customs, *ibid.*, s. 248.

Customs penalties are recoverable, among other methods, by information in the name of some officer of customs or excise, before a court of summary jurisdiction, *ibid.*, s. 218, as substituted by s. 14 of the Customs and Inland Revenue Act, 1879.

Section 257 of the Customs Consolidation Act, 1876, provides a special time limit of three years " next after the date of the offence committed," which limit overrides that of s. 11 of the Summary Jurisdiction Act, 1848.

Customs penalties are payable to the Commissioners of Customs, *ibid.*, s. 235, and Inland Revenue Act, 1890, s. 33.

As regards excise penalties, all the Acts relating to the revenue of excise apply. All penalties are payable to the Crown, see the two sections cited in the last paragraph.

An excise penalty imposed for a second or subsequent offence cannot be mitigated to less than one-fourth thereof: Excise Management Act, 1827, s. 78; the general power of mitigation in s. 4 of the Summary Jurisdiction Act, 1879, only overriding the earlier enactment so far as a first offence is concerned. But this, naturally, only affects penalties definitely fixed, such as that of £5 for keeping a dog without a licence, under s. 8 of the Dog Licences Act, 1867. Where the penalty is to be one " not exceeding " a certain maximum, as the £100 in s. 11 (6) of the Finance Act, 1932, there are unlimited powers of mitigating the fine.

Incidentally, under the Dog Licences Act, 1867, there can be mitigation on conviction for a second or subsequent offence if the prosecution be by a police constable: *ibid.*, s. 23.

There is a right of appeal against the judgment of a court of summary jurisdiction by any excise officer aggrieved by that judgment: Excise Management Act, 1827, s. 82. So that not only can an acquittal be questioned, but the amount of any fine imposed can be sought to be increased. We have never heard of any such appeal actually being taken.

Where a customs or excise penalty exceeds £50 the period of imprisonment in default may exceed three months but not six: Summary Jurisdiction Act, 1879, s. 53.

Material Alterations in a Bill of Exchange.

THE complete judgments of the Court of Appeal in *Koch* v. *Dicks* [1933] 1 K.B. 307 will repay a careful reading.

This was an action against the acceptor of several bills of exchange of which the plaintiff was the indorsee and holder. The drawers, a company carrying on business in Deisslingen, Germany, sold to the defendant in London wireless apparatus and drew the bills in payment of the price. They were made on stamped paper and purported to be drawn in London, apparently typed by the acceptor at the request of the proposed drawers. The inchoate instruments were first accepted and then sent to the German company for them to insert their names as drawers. The defendant said that the goods were defective. The German company indorsed the bills to the plaintiff who financed them. The plaintiff then tried to discount the bills in Germany, but the German bank insisted upon the bills being converted into foreign bills by altering the place where they were drawn from " London " to " Deisslingen." At the plaintiffs' request the drawers made that alteration in certain of the bills—but without the consent of the acceptor, i.e., the defendant. In an action on the bills the defendant pleaded that they had been materially altered without his assent, and that he was therefore discharged from liability in accordance with s. 64, sub-s. (1) of the Bills of Exchange Act, 1882.

Charles, J., upheld his contention, and the plaintiff appealed.

Scrutton, L.J., pointed out that before the bills were altered they were complete and inland bills. The alteration was apparent; was it a " material " one? Section 64, sub-s. (2) states: " In particular, the following alterations are material, namely, any alteration of the date, the sum payable, the time of payment, the place of payment, and, where a bill has been accepted generally, the addition of a place of payment without the acceptor's assent." It was said that this sub-section did not mention the place of *drawing*, and further that a bill was not invalid because it did not specify the place where it was drawn: s. 3, sub-s. (4). Hence, it was suggested, that if no place of drawing had been specified, it would not have mattered, and that therefore, if the place of drawing was altered it was equally not " material." But it was clear that the bill when drawn was an inland bill: s. 4, sub-s. (1). When " Deisslingen " was substituted for " London " as the place for drawing, the bill ceased to be drawn " within the British Islands " and became a foreign bill. There were differences between the two classes of bills, first with regard to the necessity for protest (in the case of a dishonoured foreign bill) and then in the matter of stamp duties. An alteration which converted an inland into a foreign bill was a " material alteration." It was irrelevant whether the alteration was or was not prejudicial to the party making it.

It is necessary for the wise to take heed of their words, and a passage in the judgment of Scrutton, L.J., in *Foster* v. *Driscoll* [1929] 1 K.B. 470 (at p. 494), was submitted to show that the alteration of the place of drawing would not be material. There was, however, a distinction between the two cases. In *Foster* v. *Driscoll* the place of drawing, lithographed " London," was altered, while the bill was incomplete, to " Lausanne," where, in fact, the bill was drawn. Here, the alteration was made when the bill had already been completed (pp. 321 and 322).

Greer, L.J., agreed " with great reluctance," for there was no difference in the liability of the acceptor whether the bills were English or German bills. Protest was not necessary to make the acceptor liable. This judgment is noteworthy for the fine graciousness with which Greer, L.J., accepts responsibility for a statement " not strictly accurate " in the article on " Bills " in the second edition of " Halsbury's Laws of England," Vol. 2, p. 714: " . . . the following alterations have been held to be immaterial: . . . alteration of the place where the bill was drawn . . ." He pointed out that " in nine cases out of ten that accurately represents the law." If a bill is drawn in London and the place of drawing is altered to Southampton that would not be a material alteration. But if the bill is drawn in London and is altered to a place in Germany that would be quite different. To say that as between the parties no alteration is made is irrelevant, for upon a bill, parties are liable who have not necessarily had with each other any direct contractual relation. As against the drawers the alteration here " did alter the legal incidence of the bills." The drawers were liable to pay the sums due for protest. The learned Lord Justice had some doubt as to how to reconcile with this case the views expressed in *Foster* v. *Driscoll*. If the drawers had recalled the bills while they were in the hands of a messenger, before they had reached the holder, he thought that this alteration would have

been effective. But here the alteration was made after the documents had reached the hands of the holders.

He discussed the further point, viz.: were the drawers authorised by the acceptors to make this alteration? If that were so, the acceptors would not, under s. 64, sub-s. (1), be discharged from liability. Was authority given in advance by the acceptor to the drawer to alter the place of drawing? By sending the bills to Germany with the word "London" upon the top, "as the address which the acceptor expected the drawers to put in the bills," the only authority given to the drawers was to issue the bills as inland bills, although, in fact, they were drawn in Germany. There was no implied authority to draw the bills as foreign bills.

Slesser's, L.J., judgment is fairly short, decisive and untroubled with doubt. The instances, he says, specified in s. 64, sub-s. (2), are simply instances of those alterations which, from time to time, have been held to be "material," but that does not exclude other alterations from being "material." Here "an alteration which produces a different order of bill altogether must, in my opinion, of necessity be a material alteration (at p. 327).

Moreover (and the philosophic training of the Lord Justice is constantly evident in his judgments) this alteration was "more essentially material" than the alterations specified in the Act. For those alterations went to details, whereas these introduced "a general change in the whole nature of the bills under the statute, not only as between the parties, but as a matter of general law" (at p. 327). He cites the second resolution in *Pigot's Case* (1614), 11 Co. Rep. 266: "that when any deed is altered in a point material, by the plaintiff himself, or by any stranger, without the privity of the obligee, be it by interlineation, addition, rasing, or by drawing of a pen through a line or through the midst of any material word, that the deed thereby becomes void" (at p. 328). There was no conflict with *Foster* v. *Driscoll* which dealt with the case of an instrument which had not yet become a complete bill

The Land Registry Report.

EVERY year the learned Chief Land Registrar, in reporting on the work of his department, is able, proudly, to point to the further progress and increased efficiency of H.M. Land Registry. It is, therefore, interesting to see what effect the current economic depression has had upon his department, particularly as his fee income, being on an *ad valorem* scale, must have suffered from the decrease in land prices.

In his annual report for 1932-33 Sir John Stewart-Wallace answers this question by showing the past year as a record for the volume of work and with a surplus of income over expenditure of approximately £47,000. The *amount* of this surplus is not a matter on which the Chief Land Registrar seeks congratulation. His aim has always been to keep the cost to the public as low as possible and the fees of his department (which were not raised either during or since the war) have been twice reduced since the war. But, in a year when lack of money and lower price levels of land upset all normal estimates of fee income, a surplus of nearly £50,000 bespeaks either a relaxation of that close investigation into titles hitherto carried out by H.M. Land Registry, or a rigid control over expenditure. That it is not the former is conclusively shown from the report.

The number of cases dealt with in 1932 was 151,712, compared with 149,869 in 1931, and 57,837 in 1921. The number has therefore nearly trebled in the last twelve years. There were 2,409 non-compulsory first registrations, or over 100 more than the previous year, and 61,071 dealings with land already registered in the non-compulsory areas. When it is pointed out that dealings in the non-compulsory areas in 1921 amounted to 5,224 and were last year nearly twelve times as many—it will be seen that land registration is not unattractive even where it is purely voluntary. All applications for first registration were examined for absolute or good leasehold title, and in 99 per cent. of London cases, 100 per cent. of Eastbourne and Hastings cases, and 96 per cent. of non-compulsory cases, absolute or good leasehold titles were granted.

The time taken to complete first registrations has been further reduced to an average of five days, as compared with twenty-four days in 1920. This is so small a period for such matters as investigation of title, survey of land and preparation of the register, that any further reduction can hardly be hoped for. The average time for dealings in London has been further reduced to 3.5 days (as compared with 10.9 days in 1920) and is probably the minimum likely to be ever reached or required.

One of the most remarkable services rendered by the department to the public is in connection with Inland Revenue stamping of documents. First arranged for the benefit of Eastbourne and Hastings practitioners, the Land Registry will now undertake to have documents (sent up for registration) stamped with conveyance or other revenue stamp duty at Somerset House, on their being accompanied by a cheque for the combined revenue duty and Land Registry fees. This service is undertaken free of all cost to the applicant and is a boon to country solicitors who could not otherwise apply for registration until their purchase deeds had been sent up to Somerset House and returned to them.

Sir John Stewart-Wallace points out, as showing the difficulties his department has had and is still having to meet, that H.M. Land Registry is not only converting all possible possessory titles into absolute titles, but bringing the hundreds of thousands of titles issued under the old Land Transfer Acts (between 1897 and 1925) up to date, cancelling and destroying many of the plans and registers and supplying new ones in their place. He also points out that cases from non-compulsory areas are much more expensive to handle than those from the compulsory areas, and many are made precisely because the title to the land is so complex as to render dealings with the land (apart from registration) so difficult and costly as to discourage sales! He hints that some increase of fees for non-compulsory registrations may sooner or later be forced on his department by pressure of circumstance.

Another remarkable feature of the year's work is the freedom from clerical error. This is a matter which might well make or mar any system of registration. Out of 151,712 transactions handled during 1932, only 934 errors occurred, a margin of error of 0.62 per cent.

It is somewhat of an irony that the department which deals with land registration should also be responsible for the land charges registration—working as it does on an entirely different system, i.e., that of a name index. Sir John Stewart-Wallace admits freely that there are numerous complaints of the inefficiency of this register. He can show that it is not due to faulty administration of the Act by his department, but to the nature of the registration. In his view the practice under the Land Charges Act, 1925, must always be defective.

In 1932 there were 118,333 registrations of land charges, and 590,494 official searches. Such official searches were made and the certificates of them issued in all cases within seven hours of the applications being received, and out of 590,494 certificates of search issued in 1932, only twelve substantive errors came to light. It can be seen, therefore, that the working of this (Land Charges) department is highly efficient, and that no blame can attach to H.M. Land Registry for the numerous complaints of the defective nature of the register.

The Middlesex Deeds Registry has not expanded—the number of memorials registered in 1932 being 51,643, against 52,134 in 1928. Sir John makes no comment on this set-back, which is obviously not connected in any way with any lack of departmental efficiency.

The Chief Registrar concludes his report with a tribute to the loyalty and co-operation of his staff. But this latest

report is one more tribute to a most capable and gifted administrator, and the marvellous efficiency and success of H.M. Land Registry is undoubtedly due to the enthusiasm and high ability of the present Chief Land Registrar.

The Tenant's Covenant to Insure.

"UNDER the recent House of Lords decision in *Lord Tredegar* v. *Harwood* it is now open to a Lessor to nominate the Company with which his property is to be insured. We have decided to have all our properties in this neighbourhood insured with the G. Company, and if you will furnish us with the name of your present insurance company together with particulars of premiums paid we will arrange the necessary transfer on your behalf."

Thus runs a circular letter addressed to several thousand tenants by one of the most important ground landlords in a certain locality. Such a letter could not fail to provoke considerable annoyance and discussion. Now, does it correctly express the law on this subject?

In our opinion it does not. *Tredegar* v. *Harwood* (reported in [1929] A.C. 72) is a decision upon particular and peculiar facts. The covenant by the lessee to insure against fire was there expressed in the following terms: "The lessee shall and will . . . insure and ever afterwards during the said term keep insured the said messuage . . . in the joint names of the lessee and lessor in the Law Fire Office or in some other responsible insurance office to be approved by the lessor . . ." The original lessee insured as directed with the Law Fire Office, but his assignee in lieu thereof took out a policy in the Atlas Company. The ground landlord, who also owned a large number of other houses on the same estate, refused to approve of the Atlas Company on the ground that for purposes of estate management he required all his houses to be insured with the same company. The assignee proving adamant, the landlord brought proceedings, in form for forfeiture of the lease by reason of the breach of covenant, but in effect to obtain the court's construction of the covenant.

The House of Lords (by a majority of three to one) held that, upon the true construction of the covenant, the primary obligation of the assignee was to insure in the Law Fire Office, and that the landlord had an *absolute* right to withhold his approval of an alternative office without entering upon reasons.

That this decision created new law there can be little doubt. Previously it was assumed that, where under the lease the landlord's approval was required, such approval could not be unreasonably withheld, any more than the lessor in *Houlder* v. *Gibbs* [1925] Ch. 575, could unreasonably refuse his assent to the assignment of the lease to a responsible person. But the House of Lords expressly cast doubts on the last-named case and said that the analogy was not a good one. Now it seems clear law that *if* the lease indicates that the approval of the lessor is necessary, such approval can be arbitrarily withheld.

But, *once granted*, surely such approval cannot afterwards be retracted to the detriment of the tenant? And if the lease mentions nothing at all about obtaining the lessor's approval, is it even then open to him to fix on a particular company (which, it may be for reasons of personal advantage, appeals to him) as being the one to be patronised by the lessee?

Take a lease granted, say, fifty years ago and containing the then quite common covenant providing that the lessee " . . . will during the said term keep insured the said premises hereby demised to the amount of £—— at least in some respectable fire insurance office . . ." No company named and nothing said about obtaining the lessor's approval. Assume that since 1880 the premises have been insured with the P. Company, whose financial stability is unquestionable. Is it open to the lessors capriciously to insist at this late date that insurance must be effected with the G. Company? And even if the lease had required the lessor's approval to be obtained, can he after fifty years say that the P. Company is not a suitable one? In our opinion, the answer to both these questions is in the negative and *Lord Tredegar* v. *Harwood* affords no support to the contrary view.

Company Law and Practice.

TRANSFER OF SHARES.—II.

CLXXX.

A TRANSFER of shares is not complete unless and until it has been registered; but once a duly executed transfer has been followed by registration, the legal title to the shares passes to the transferee. It seems that in some circumstances it may pass without registration, viz., where as between the company and the transferee the latter has an absolute right to have the transfer registered: In the words of Joyce, J., in *Peat* v. *Clayton* [1906] 1 Ch. 659, "where there are several claimants to shares registered in the name of a third person, the equitable title which is prior in time prevails, unless the claimant under a subsequent equitable title proves that as between him and the company he had acquired an absolute and unconditional right to be registered as the owner of the shares before the company received notice of the other claim." Apart from this, the general rule is that in the absence of registration the transferee has only an equitable right to the shares, and this may expose him to the risk of postponement to subsequent transfers which are registered or to prior equities. For example, in *Ireland* v. *Hart* [1902] 1 Ch. 522, a husband who held shares on trust for his wife executed to the defendant as security for a loan a transfer of the shares, and this was left with the certificate at the company's offices for registration; in fact the transfer was not registered. It was held that the defendant had not a present absolute unconditional right to registration, and therefore had not acquired a legal title to the shares, so that the wife's prior equitable title must prevail.

Moreover, until registration of the transfer the transferor will remain liable for calls: Thus cl. 17 of Table A provides that: "The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members"; and it is for this reason that s. 65 of the 1929 Act gives the transferor the right to apply to the company and enforce registration, "in the same manner and subject to the same conditions as if the application were made by the transferee." In general, of course, it is the transferee's duty and in his interest to get the transfer registered, and s. 66 (1) provides that if a company refuses to register a transfer it must within two months send the transferee notice of the refusal.

Not only in the case of non-registration of a transfer, but if for any other reason the transfer is ineffectual, the transferor's liability for calls will persist: e.g., if the transfer was into the name of a person without the latter's authority; and such liability continues until there is a transferee legally liable to the company or until the transferor has got rid of his liability in some other lawful way. However, s. 100, Companies Act, 1929, gives the transferor the right in any case where default or unnecessary delay is made in entering on the register the fact of his having ceased to be a member to apply to the court to rectify the register; and the court is empowered to order in addition payment by the company of damages sustained by any aggrieved party. Nevertheless a company may have good reason for refusing or delaying to register a transfer; it may wish to inquire into the authenticity of the transaction, or into the existence of an authority under which the transfer purports to be made; and it is a good ground for refusal to register that the transfer is not duly stamped and could not therefore be given in evidence, so

that the directors cannot rely on it as justifying the alteration of the register; or again the articles may authorise a refusal to register in specified circumstances (*cf.* Table A, cl. 19).

The form of transfer depends, as we have seen, upon the provisions of the articles. Clause 18 of Table A sets out a specimen form. Sometimes the articles require the transfer to be by deed, but the fact that cl. 17 of Table A says that the form of transfer shall be *executed* by or on behalf of the transferor and the transferee does not without more entail the requirement of a deed. No real advantage appears to accrue from making a deed necessary for a transfer, and indeed it may prove most inconvenient: thus, if the transfer is in blank, i.e., signed by the transferor but with the name of the transferee not filled in, it is, *as a deed*, void and inoperative, and the transferee cannot fill up the blank and re-deliver the instrument without a power of attorney under seal. Thus, in *Powell* v. *London & Provincial Bank* [1893] 2 Ch. 555, a trustee who was the registered holder of stock deposited as security with a bank the stock certificate, and a blank transfer executed by himself: a deed was necessary for transfer. The bank, who had no notice of the trust, subsequently inserted their name in the blank transfer and executed it; but the deed was not re-delivered by the borrower nor executed in his presence nor by his authority under seal. The transfer was duly registered by the company and the bank informed the borrower. The Court of Appeal held that the transfer was not the deed of the borrower, and did not pass the legal title to the stock, and therefore, though the bank were not affected with notice of the breach of trust, their title must be postponed to the prior equitable title of the beneficiaries.

However, though as a deed such an instrument is void, it may, in accordance with general equitable principles, constitute an agreement giving the transferee the right to call for a transfer by deed.

This difficulty with regard to a blank transfer does not arise where, as in the form provided by cl. 18 of Table A, no deed is required, but an instrument in writing signed by the parties; and, further, irregularities in the form which are not material to the particular case will be disregarded. Nor can transfers be impeached for non-observance of formalities if the company has regularly dealt with transfers which do not observe the formalities or where the intended transferee has for some length of time been recognised as shareholder.

Where a transfer is being executed by way of mortgage the common practice is for the transferor to hand over a blank transfer, the intention being that the mortgagee shall, if he wish, be in a position to fill in the blank and then get himself registered. We have seen the difficulty which may arise where the articles require transfers to be by deed; but where this is not the case the mortgagee may have an oral authority to fill in the blank or an authority implied from the nature of the transaction. It appears from Jessel, M.R.'s judgment in *Ex parte Sargent*, L.R. 17 Eq. 273, that where the owner of shares borrows money and deposits with the lender certificates of his shares and transfers thereof signed by him but with the date and name of the transferee left blank, the lender has implied power to fill up the blanks, and the transfers will pass the legal interest if the articles do not require a deed. Equally if the mortgagee wishes to transfer his security he has implied power to fill in the name of his assignee.

Even after a winding up has commenced transfers are still possible. Where the winding up is by the court, s.173 of the Act permits the court to sanction transfers made after winding up has begun; thus the court would presumably sanction a *bona fide* transfer made in ignorance of the petition. If the winding up is voluntary s. 229 authorised the liquidator to sanction such a transfer, but if he does not do so it is void. If he does sanction it the transferor is put on the B list, and the transferee on the A list of contributories.

(*To be continued.*)

A Conveyancer's Diary.

I HAVE already commented upon *Re Fuller's Contract* [1933] W.N. 70, and I only refer to it again because one of the results of the decision in that case has been brought home to me in practice.

Partnership Property and the Transitional Provisions of the L.P.A.

It will be remembered that Luxmoore, J., held that property which had before 1926 been conveyed to partners to hold as part of their partnership property was held by them for persons entitled in undivided shares, and consequently by virtue of the transitional provisions contained in Pt. IV of the 1st Sched. to the L.P.A., 1925, was held upon the statutory trusts.

That decision was contrary to what many others as well as I had thought to be the law on the subject. Certainly I was in good company in taking the view that the L.P.A. had not affected the position regarding partnership property. With great respect to the learned judge, I am still of the same opinion, but I can see that his Lordship's decision will be followed by other judges in the court of first instance and is likely to stand for a long time to come.

My reason for recurring to the subject is that I have met in practice one of the difficulties to which the decision gives rise. There are others, and I must say that the learned judge does not seem to have realised or have had drawn to his attention all the possible consequences of his decision.

A and B were partners and property had been conveyed to them before 1926 to hold as joint tenants in fee simple as part of their partnership assets.

A and B then contracted to sell the property, but A died before the completion of the purchase.

The conveyance to A and B contained a provision to the effect that, on the death of either, the survivor should have power to sell the property, and that a purchaser from such survivor should not be entitled or concerned to enquire as to the propriety of the sale or the disposition of the purchase money.

Now, taking the decision in *Re Fuller's Contract* as being correct (which I think must be done, although I respectfully disagree with it), the position which then arose was that A and B had become trustees holding upon the statutory trusts on the commencement of the L.P.A., and therefore B as the surviving trustee was not in a position to give a good receipt for the purchase money.

That was the point which I took, and I said that B must appoint another trustee to act with him in order that the sale might properly be carried into effect.

Against that it was suggested that the express power contained in the conveyance to A and B enabling the survivor to sell and give a good receipt to a purchaser, was, notwithstanding the transitional provisions of the Act, effective.

My answer to that was that the statutory trusts were overriding trusts, and that no powers conferred on A and B or on either of them could prevail against such trusts, which were imperative and included the exercise of any such express powers—and I referred to *Re Flint* [1927] 1 Ch. 570; *Bernhadt* v. *Galsworthy* [1929] 1 Ch. 549, and *Re Thomas* [1930] 1 Ch. 194.

The result was that "for the sake of peace and quietness" B appointed C to be a new trustee to act with him for the purposes of the statutory trusts, and conveyed the property to himself and C as joint tenants to hold upon such trusts.

The conveyance to the purchaser was duly made by B and C, and the purchase-money was expressed to be paid to them.

Immediately upon the execution of the conveyance B required C to hand over the purchase-money to him on the ground that as he was the surviving partner he was entitled to receive the assets of the firm so that he might properly wind up the affairs thereof.

To that request, as it seems to me, C had nothing to say, except to comply with it.

In fact, C never had anything to do except to execute the conveyance. The same solicitors acted for him and B, and, of course, on completion paid over the money to B, who was unquestionably entitled to it.

That seems to me to be an absurd result of the decision in *Re Fuller's Contract*, but it appears inevitably to follow from it. It so happened in the case of which I am thinking that the result was even more unfortunate, because under the articles of partnership entered into by A and B it was provided that on the death of either partner the whole of the assets of the partnership should vest in the survivor, subject to certain conditions regarding payments to be made to the personal representatives of the deceased partner.

In effect, therefore, the surviving partner was the absolute owner, but as he and his deceased partner had been constituted trustees holding upon the statutory trusts (which override all other trusts and powers), the survivor could only be a trustee holding upon such trusts, and, being a sole trustee, could not give a receipt to the purchaser for the purchase-money.

It does not appear that the attention of the learned judge was drawn to what might be the result of his decision in many not unlikely events, and I cannot help expressing the opinion that the decision was made too hastily and without due regard to the results that might flow from it.

This leads me to express a reluctant opinion that there is a flaw in our judicial system with regard to the establishment of precedents which I have long thought might be remedied without any legislative interference. I am far from following Mr. Claud Mullins and others who have, with such lavish rhetoric, criticised what is known as "judge-made law," or perhaps, to be more fair to such critics, as have thrown doubt upon the value of precedent. I think, however, that judgments given in vendor and purchaser summonses ought not as a general rule to be reported, or, if reported, regarded as precedents.

In cases which come before the court upon such summonses the parties are often only concerned to obtain a decision one way or the other so as to establish a title for the purchaser. There is often (I go further and say generally) no serious argument beyond what may be sufficient to enable the judge to make an order which will establish the title without regard to the wider issues that may be involved.

Take for example *Re Fuller's Contract*. Without any disrespect for the learned counsel engaged, it looks from the report that no more than a perfunctory argument was advanced and the results following from the conclusion of the learned judge were not fully brought to his notice, or if so, are not revealed in the judgment.

As another illustration take *Re Thomas* [1930] 1 Ch. 194. In that case the parties were not really concerned whether or not the power of appropriation given in the will there being considered was over-ridden by the statutory trusts provided that an order for appropriation was made under s. 57 of the T.A., 1925, which was done.

A more glaring and important instance still is *Re Bridget and Hayes' Contract*, which gave to the learned judge who decided it an opportunity, by what were purely *obiter dicta*, to express an opinion which had far-reaching effects without having heard any argument at all on the main question involved.

It may be said that this only goes to show that judges should be discouraged from delivering *obiter dicta* (with which I heartily agree, but know of no way of stopping it); but it is not quite that. My point is that vendor and purchaser summonses are often not seriously argued and ought not to be reported, and that *dicta* delivered in judgments in such summonses are still less to be regarded than those which judges let slip so readily in other proceedings when the matters in question are more exhaustively gone into by counsel. The recognised reports are overloaded with ill-considered *dicta*, which never ought to be, but unfortunately are, cited as authorities and too often accepted as such.

Landlord and Tenant Notebook.

Sale of Grass Keep.

The custom of disposing of aftermath may, as His Honour Judge Roope Reeve, K.C., observed in *Allen* v. *Chambers*, reported in our "County Court Letter" of the 1st April, be one not in vogue all over the country; but it is a well-established one, for its effect is dealt with in "Coke upon Littleton," at p. 4b. The learned author there lays it down that a demise of "herbagium" or "vestura terræ" conferred upon the grantee the right to sue in trespass to land. Lord Coke can hardly have foreseen such measures as the Lodgers' Goods Protection Act or the Agricultural Holdings Act, but his authority has been invoked in deciding questions arising out of these statutes. In *Masters* v. *Green* (1888), 20 Q.B.D. 807, the plaintiff sued for wrongful distress. The articles seized were cattle. Their presence on the premises was attributable to an agreement between him and the tenant. The plaintiff alleged that by virtue of this agreement the cattle were livestock taken in to be fed at a fair price and thus privileged from distress by virtue of the Agricultural Holdings Act. It appeared that the agreement gave him "the exclusive right to feed the grass on the land for four weeks," for a payment of £2. This the court held to be not the price of the feed, but a payment in the nature of rent for use and occupation. No doubt the word "exclusive" played an important part; it is part of the test of the relationship of landlord and tenant.

A similar point arose in a different way in *Richards* v. *Davies* [1921] 1 Ch. 90, when the landlord of a farm had obtained an interim injunction against the tenant, whose term was drawing near to its end, restraining him from advertising the letting of the grass keep. The cause of action was provided by a covenant against underletting or permitting others to use or occupy the premises. The plaintiff had given the usual undertaking to pay damages, and at the hearing the tenant alleged that the sale of the grass keep was customary in those parts, and that the arrangement contemplated would be one by which he would water and look after any sheep turned on to the land. It was held that this would not prevent the grantee from being a person using and occupying the land.

But whether the arrangement would have constituted a breach of a less comprehensive covenant against alienation—one which merely prohibited sub-letting—seems doubtful. In *Allen* v. *Chambers*, *supra*, the covenant referred to more than sub-letting. And for guidance as to the other possible implications of an agreement for the sale of grass keep one must look to older authorities.

Thus it would seem that, even if the agreement amounts to a demise, the grant will not, in the absence of express stipulations, comprise more than the surface; for the possibility of the surface of the land being vested in one person and the subsoil in another was referred to in *Cox* v. *Glue* (1848), 5 C.B. 533, in which it appeared that the burgesses of the town of Derby had the right to take the herbage, by the mouths of their sheep and cattle, during a certain period of every year, and the plaintiffs (the freeholders) successfully sued some people who had erected tents and for that purpose driven stakes into the ground.

On the other hand, however small may be the subject-matter in value, transactions of this nature may be contracts relating to an interest in land. When the sale of the grass keep is effected by an arrangement such as was contemplated in *Masters* v. *Green* and *Richards* v. *Davies*, i.e., by a short tenancy or occupation, the exception in L.P.A., s. 54 (2), applies, so that no writing is necessary in order to make the grant valid. But the buyer of a standing crop under a verbal agreement may be in a difficulty, as was the unfortunate plaintiff in *Crosby* v. *Wadsworth* (1805), 6 Ea. 602. He had agreed with the defendant to buy the latter's standing crop of mowing grass for twenty guineas, no time being fixed for

the mowing. Some three weeks later the defendant repudiated the agreement and sold the crop to someone else for 265 guineas. The plaintiff tendered twenty guineas, which the defendant refused; the plaintiff thereupon entered and proceeded to mow, and the defendant turned him out and removed the mowed grass. Lord Ellenborough held, that, the grass not having been severed when the contract was made, there was no sale of goods; that the contract related to an interest in or concerning lands; that while the Statute of Frauds might not avoid it, the term being shorter than three years, and while the plaintiff was not suing to enforce the contract, yet such a contract could be discharged while still executory, and this had happened in this case when the defendant had repudiated it.

Our County Court Letter.

THE REMUNERATION OF DOCTORS.

(*Continued from* 77 SOL. J. 247.)

THE principle of fixing fees by reference to the size of the patient's house has been upheld in two recent cases. In *Sprout* v. *Gaunt*, at Otley County Court, the claim was for £50 19s. 6d. for professional services, the plaintiff's case being that (*a*) there were ninety-six visits, viz., eighteen in 1928, six in 1929, fifty-four in 1930, three in 1931 and fifteen in 1932; (*b*) the charges (which included medicine and telephone calls) varied from 10s. 6d. to 15s. 6d., according to the time and duration of the visit; (*c*) the defendant had been living in one of the largest houses in Rawdon (the probable rent being £150 a year), a visit to which usually implied a fee of 10s. 6d. The defendant's case was that (1) his house (the estimated rent of which was £120 a year) was mortgaged to the bank; (2) there had been an alteration in his circumstances; (3) the charges were unreasonable and should not have exceeded 5s. per visit, or 6s. including medicine. His Honour Judge Woodcock, K.C., held that the change in circumstances was immaterial, as the plaintiff should have been given the opportunity of reducing his charges for an old patient (the defendant's wife)—in which event the plaintiff would have had the option of discontinuing treatment. Judgment was therefore given for the plaintiff for the amount claimed, with costs.

In *Storrs* v. *Moore*, at Chelmsford County Court, the claim was for £35 7s. 6d. for medical attendance, following a motor accident. The defendant had been an in-patient at Chelmsford Hospital, where he was moved from the public ward to a private ward—the charges then being 5 guineas a week, exclusive of doctors' fees. Having paid 12½ guineas (under protest) after 2½ weeks in the hospital, the defendant objected to pay a further £21 for an operation on his wrist, which he alleged was a routine operation. The plaintiff's case was, however, that (1) he had spent two hours sorting out and joining up the tendons; (2) he had paid 4 guineas to the anæsthetist; (3) he had charged 5s. for each visit to the hospital and a guinea for each visit to the defendant's home; (4) the door had there been opened by a butler, and there were also two indoor and two outdoor servants. The defendant (who had paid £20 into court) contended that his social status and resources had been over-estimated. His Honour Judge Hildesley, K.C., gave judgment for the amount claimed, with costs.

THE LIABILITIES OF AMUSEMENT CATERERS.

IN the recent case of *Evans* v. *Ward*, at Torquay County Court, the claim was for (*a*) £49 10s. as money paid upon a consideration which had failed, or (*b*) cancellation of a contract dated the 24th November, 1932, and the repayment of £49 10s., or (*c*) a like sum as damages for fraud or misrepresentation. The plaintiff's case was that (1) having answered an advertisement, he received a call from the defendant, who offered him three miniature bagatelle machines; (2) these were alleged to be capable of producing £2 a week on a fifty-fifty basis, their price being £16 10s. each; (3) the plaintiff therefore bought three, but one went wrong and the other two only averaged 3s. 5d. and 6s. 1d. a week respectively. The defendant admitted having said that the machines could earn almost anything, but he had also explained that he could not guarantee a profit of £2 a week, as the machines might only earn a few shillings. His Honour Judge The Hon. W. B. Lindley held that the conversation consisted of what was usually called "boosting," and judgment was therefore given for the defendant, with costs. For a prior reference, see the "County Court Letter" in our issue of the 17th December, 1932 (76 SOL. J. 886).

Reviews.

The Stock Exchange Official Intelligence for 1933. Vol. LI. Edited by REGINALD E. SATTERTHWAITE, Secretary of the Share and Loan Department of the Stock Exchange. Demy 4to. pp. clxiv (with Index) and 2004. London: Spottiswoode, Ballantyne & Co., Ltd. 60s. net.

The 1933 issue of this useful reference work contains particulars of 550 companies not included in the previous issue. The increase is not due to new companies, but to the inclusion of companies now thought of sufficient public interest to be added.

New features in the issue are notes on the Estate Duty and on War Debts and Reparations. A summary is given of the principal decisions affecting Company Law during 1932, and, while the list is not exhaustive, the most important cases will be found there.

The preparation of the volume must entail a tremendous amount of detailed work which appears to have been carried out with great care and accuracy. It will be referred to frequently by those who have much dealing in stocks and shares.

Lunacy Accounts. By T. C. S. KEELY. 1932. Demy 8vo. pp. x and (with Index) 79. London: Jordan & Sons, Ltd. 7s. 6d. net.

In this little book the author, who has had twenty-five years' experience in the Department of Management and Administration, Royal Courts of Justice, sets forth in a clear and lucid manner the requirements necessary to satisfy the Department as regards Accounts. Mr. Keely says in his preface that, as head of the Accounts Branch of the Department during the last three years, he has found that there is a real need for a simple book dealing with lunacy accounts. We agree with him and are of the opinion that his book should amply meet that need. The work covers, of course, not only accounts relating to the estates of lunatics, but also those of persons who for various reasons are incapable of managing their own affairs. The appendix contains specimen accounts, and there is a short but satisfactory index. The book should prove extremely useful to receivers and solicitors, and also to accountants.

Books Received.

Bennett's Chancery of Lancashire Practice. Second Edition. 1933. By ROBERT ALEXANDER FORRESTER, B.A., of Gray's Inn and the Northern Circuit, Barrister-at-Law. Medium 8vo. pp. xviii and (with Index) 668. London: Sherratt and Hughes. 25s. net.

Frederick Edwin Earl of Birkenhead. The First Phase. By his Son, THE EARL OF BIRKENHEAD. 1933. Demy 8vo. pp. (with Index) 319. London: Thornton Butterworth, Ltd. 21s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Disclaimer by Life-Tenant—Effect—Death Duties.

Q. 2721. A testator left real property to his two brothers, A and B successively, for life with remainder to B's son, C. A, having lately died, B now wishes to renounce or disclaim his life interest so as to allow the property to pass at once to his son, who is now of age. Presumably B cannot be compelled to take the property if he does not want it. What document should B execute to give C a good title? Estate duty being now paid as on A's death, will further duty on B's death (in C's lifetime) be avoided? Is B nevertheless liable to succession duty?

A. It is true that B cannot be compelled to take the life interest. The right of disclaimer is founded upon the principle that a man cannot have an estate put into him in spite of his teeth (per Abbott, C.J., in *Townson* v. *Tickell* (1819), 3 Barn. and Ald. 31, 37). If B disclaims his life interest the effect will be to accelerate the interest of his son C. A disclaimer by B will therefore perfect C's equitable title. We are not in possession of sufficient information to state where the legal estate may now be. If the testator died before 1926, and if assent to the devises of his will before that date be assumed, the legal estate was in A (L.P.A., 1925 Sched. I, Pt. II, paras. 3 and 6 (*c*)), and is now in his special representatives. The position will be the same if there was a vesting assent in A's favour after 1925. It will be necessary to ensure that the legal estate is properly vested in C. Estate duty will be payable on the death of B if he does not survive his disclaimer by three years. (See Finance Act, 1900, s. 11, as altered by s. 59 of the Finance (1909-1910) Act, 1910.) Succession duty will be payable as if there had been no acceleration. (Succession Duty Act, 1853, s. 15.)

Assent—Protection of Purchaser—A.E.A., 1925, s. 36 (7).

Q. 2722. A died in 1930, leaving freehold mortgaged property. By his will A appointed his wife, a son and a daughter, to be executors and trustees of his will, and, after making certain bequests, he gave his residuary estate, which included the above-mentioned mortgaged property, to his trustees, upon trust for his wife for life, and then to his six children. The executors duly proved the said will, and later executed an assent in writing of the freehold property to the widow for all the estate or interest of the testator at the time of his death and subject to the then subsisting mortgage (a building society redeeming mortgage). A memorandum of such assent was endorsed on the probate of the will of the testator. A verbal family arrangement has been made. The widow has paid off the building society mortgage and arranged a new private mortgage on the freehold property. Is a new mortgagee safe in accepting the above title in view of s. 36 of the A.E.A., 1925, and having regard to the fact that the widow is tenant for life under the will, whereof the mortgagee has knowledge?

A. We understand that the assent in favour of the widow was not a vesting assent (as to a life tenant), but was in the form of an assent to a person absolutely entitled by devise, bequest, devolution, appropriation or otherwise. An assent in favour of a purchaser (which, of course, includes a mortgagee (A.E.A., 1925, s. 55 (1) (xviii)) is "sufficient" evidence that the person in whose favour it is made is the person entitled to have the legal estate conveyed to him and upon the proper trusts, if any (*ibid.*, s. 36 (7)). As the word used in the Act is "Sufficient" and not "Conclusive," we express the opinion that in the circumstances the new mortgagee will not be safe in accepting title from the widow as if absolute owner. A different view will be found on p. 516 of Vol. II of Emmet's "Notes on Perusing Titles" (12th Ed.), and the writer believes that the point has been the subject of controversy.

Lease—Covenant to Register with Ground Landlord on "an Assignment, Transfer, Underlease or Devolution of the said Property or any Part thereof"—Mortgage by Demise—Whether Applicable to Vacating Receipt.

Q. 2723. In a lease granted in 1914 for ninety-nine years there is a covenant to register with the ground landlord on "an assignment transfer underlease or devolution of the said property or any part thereof." The property was mortgaged by demise in 1925, and this mortgage is now being paid off and the receipt set out in the 3rd Sched. to the L.P.A., 1925, will be endorsed. (*a*) Does this receipt come within the above-mentioned covenant? (*b*) Would it make any difference if the mortgage had been by assignment?

A. (*a*) We think so.

(*b*) We do not think so.

The Council of The Law Society (Opinion of Council, 16th June, 1932, "Gazette," August, 1932) in the case of a covenant in respect of "any assignment or underlease transfer or devolution of (the lessee's) his interest of or in the said premises or any part thereof" held that a statutory receipt was registrable. Our subscribers will observe that the case before The Law Society was in all essentials on all fours with their own case. As indicated above, we see no reason to think that the vacating receipt in respect of a mortgage by assignment would be on a different footing, seeing that such a mortgage would now be altered into one by demise: L.P.A., 1925, Sched. I, Pt. VIII.

Extinguishment of Manorial Incidents—Arrears of Fees—L.P.A., 1922, s. 130 (5).

Q. 2724. A steward of a manor, appointed before the passing of the L.P.A., 1922, has been asked to quote terms for the extinguishment of the manorial incidents, in respect of property to which a tenant for life became entitled on the 30th October, 1925. The tenant for life has never been admitted to the property, and the steward had no knowledge that the tenant on the court rolls had died on the 30th October, 1925, when the tenant for life succeeded. The solicitors for the tenant for life contend there are no fines and fees payable as on the admission of the tenant for life, and quote s. 130 (5) of the L.P.A., 1922. Does this subsection bar the steward recovering fees as well as the lord his fine? The section does not mention fees. We shall be glad to know if the steward is barred from recovering his fees under the section, or after six years from the time they become payable, and when you consider they become payable.

A. Sub-section 130 (5) will not apply to the case where the owner is applying to extinguish manorial incidents, as the payment will be on the same footing as the redemption of a mortgage debt. (See "Emmet's Notes on Perusing Titles," 12th ed., vol. 2, p. 674, citing "W. and C.," 11th ed., vol. 1, p. 16.) On this basis it is not necessary to consider whether the right to recover is barred or not.

Obituary.

MR. H. S. SCHULTESS-YOUNG.

Mr. Henry Schultes Schultess-Young, barrister-at-law, died at his home at Bedford Park, W., on Wednesday, 3rd May, at the age of eighty-two. Mr. Schultess-Young, who was called to the Bar by the Inner Temple in 1888, was for many years leading counsel for the Anti-Vaccination League.

MR. H. B. LEE.

Mr. Hugh Booth Lee, solicitor, of Whitchurch, Shropshire, died on Saturday, 29th April, at the age of sixty-four. Mr. Lee, who was admitted a solicitor in 1894, was a partner in the firm of Messrs. Lee, Gardner & Gabb, of Whitchurch.

MR. S. RHODES.

Mr. Sydney Rhodes, B.A., solicitor, of Manchester, died at his home at Stockport, on Sunday, 16th April, at the age of seventy-two. Mr. Rhodes served his articles with Messrs. Woodcock, of Haslingden, and was admitted a solicitor in 1883. He remained with Messrs. Woodcock for some years, and then joined Messrs. Newton, Fowden & Vaudrey, of Manchester.

MR. R. A. C. SYMES.

Mr. Reginald Anthony Colmer Symes, solicitor, of Scunthorpe, died at Scunthorpe, on Saturday, 29th April, at the age of fifty-five. Admitted a solicitor in 1899, Mr. Symes became senior partner in the firm of Messrs. R. A. C. Symes & Co., of Scunthorpe.

MR. H. YEO.

Mr. Henry Yeo, solicitor, of Wimbledon Park, died at Lincoln's Inn Fields, on Friday, 28th April, at the age of sixty-six. Mr. Yeo was admitted a solicitor in 1920.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Lord Brougham, the most versatile and the most eccentric Chancellor who ever sat on the Woolsack, died at the Château Eleanor Louise, near Cannes, on the 7th May, 1868, being then almost ninety. Since 1840 he had spent several months of each year in this house which he had built and named after his dead daughter. Round the walls were inscribed verses written in her praise. Here he rested from political strife, though, while he cultivated his oranges and his olives, he still had an attentive ear for its echoes. It was his influence which raised Cannes from a fishing village to its present importance and the town has marked its gratitude by raising a statue to his memory. On this monument is a poem which concludes with the following lines :—

" C'est ici le repos, le vrai bonheur, la vie.
Adieu fortune, espoir qu'un autre vous envie.
Des reflets inconnus baignent ses yeux charmés,
La fleur nait sous ses pas, sur le flot l'azur brille ;
Tandis que s'éveillant, Cannes, son autre fille,
Lui tend ses deux bras embaumés."

Such was the peaceful retreat of the most turbulent political figure of his time. Yet even in France he was restless. On the revolution of 1848, he aspired to a place in the National Convention and applied for naturalisation so that he could be a Frenchman in France and an Englishman in England. When, however, the Minister of the Interior explained to the ex-Chancellor that this sort of political bigamy was impossible, " Citizen Brougham " decided to remain a British peer.

" RELIEF."

In discussing the construction of the words " the relief of persons in somewhat straightened circumstances," Mr. Justice Maugham recently observed that the word relief had acquired a certain connotation from its use in connection with the expressions " outdoor relief," " indoor relief," and " relieving officer." It might have been added that Lord Chief Justice Coleridge gave it yet another significance. One day in conversation the subject turned to Wyndham West, a silk for whom he had no great love, and the multitude of that gentleman's appointments was enumerated—Recorder of Manchester, Attorney-General for the Duchy of Lancaster, Judge of the Salford Hundred Court of Record, prosecuting counsel for the Post Office. " You don't say so ! " exclaimed the Chief at last. " What a lot of outdoor relief the fellow has ! "

A CHANCE REMARK.

So many thefts have there been at Shoreditch County Court recently that when His Honour Judge Sturges took his place without wig or robes he observed, smiling, " I am sorry I have not got my robes, but I will not tell you where I have left them." He had clearly an eye to avoiding the misfortune which befell that judge who happened to remark from the Bench that he had left his watch at home, thus inspiring an active-minded thief to go straight to his house as if with a message and taking time by the forelock get possession of the chronometer. Various judges are mentioned as the sufferer, but Sir John Sylvester, Recorder of London, seems the most likely.

Notes of Cases.

High Court—King's Bench Division.

Knott *v.* London County Council.

Acton and Goddard, JJ. 3rd April.

DOG—FELLOW SERVANT OF DOG'S OWNER BITTEN—*Scienter*—COMMON EMPLOYMENT—EMPLOYER A CORPORATE BODY—NOT LIABLE.

This was an appeal by the plaintiff, Harriet Kate Knott, from a decision given at the Southwark County Court. In the action she claimed damages from the London County Council for injuries sustained by her when she was bitten by a dog belonging to the schoolkeeper at one of the defendants' schools, the Abbey Street Centre. The plaintiff was a cleaner employed at that school, and when one day attending to her duties there she was attacked and badly bitten by a dog owned by the schoolkeeper, one Frankland, who kept the dog as a pet. The county court judge found that Frankland had knowledge that the dog was prone to attack mankind, and said that if the action had been brought against him (Frankland) there would have been no defence. But he held that as the plaintiff and Frankland were servants of the defendants the doctrine of common employment applied, and he dismissed the action. The plaintiff now appealed.

GODDARD, J., giving the judgment of the court, said that the schoolkeeper's duties were set out in a book of rules, which provided by r. 147 that he was allowed to keep a dog, for the proper control of which he was responsible. The plaintiff's argument was that the knowledge of the schoolkeeper was the knowledge of the defendants, and that accordingly they were knowingly harbouring on their premises a savage dog for which they were liable. To that argument two answers were made : (1) that the knowledge of the servant was not the knowledge of the master ; and (2) that the dog was not under the defendants' control. On the first point, in their lordships' judgment, if the action had been brought by a person who was not a fellow-servant of the caretaker, the defendants would not have been able to say that they had no knowledge of the dog's propensity. The decisions on that point seemed conclusive. But the question

here was whether that doctrine applied where the plaintiff was in common employment with the servant who had the knowledge. They (their lordships) thought that it did not. His lordship then referred to *Fanton* v. *Denville* [1932] 2 K.B. 309. It had been argued that as the employer was a corporate body, knowledge in any servant whose duty it was to communicate the information to the employer affected the corporation. On the authorities they (their lordships) did not accept that contention. Apart from that there was another difficulty in the plaintiff's way caused by the case of *North* v. *Wood* [1914] 1 K.B. 629. But for that case it could have been said that, had *scienter* in the defendants been established, it would have been a case of an occupier of property harbouring a dog known to him to be dangerous, and that the defendants were liable on that ground. *North* v. *Wood*, *supra*, however, decided that the test was who had the control of the dog. That point therefore also failed. The appeal would be dismissed.

COUNSEL: *F. G. Paterson* and *Norman E. Wiggins*, for the appellant; *R. T. Monier-Williams*, for the respondents.

SOLICITORS: *Darracott, Seymour & Co.*; *Solicitor to the London County Council.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Taylor *v.* Taylor and Barclays Bank, Limited.

Macnaghten, J. 28th April.

TITLE DEEDS—LEASEHOLD PROPERTY—PURPORTED ASSIGNMENT BY BENEFICIARY TO EXECUTOR—ALLEGED CONSIDERATION—NO INTENTION TO ASSIGN—PLEA OF *non est factum*—DEEDS LODGED WITH BANK BY EXECUTOR AS SECURITY FOR LOAN—ORDER FOR DELIVERY UP OF DEEDS TO BENEFICIARY.

This was an action by Emily Ann Taylor, a widow of about eighty years of age, and somewhat deaf, against her son, Frederick George Taylor, and Barclays Bank, Limited, to recover possession of the title deeds to a leasehold house, 36, Homefield-road, Chiswick, W., in which she was then living and which was bequeathed to her under her husband's will. Her son, the defendant Frederick George Taylor, was by the will appointed sole executor. In June, 1927, the defendant F. G. Taylor presented to his mother, who was then ill in bed, a sheet of paper so folded that the part presented to her was blank, and asked her to give him her signature. She did so, under the impression, she stated in evidence, that it was required for the purposes of the administration of the estate. The document, it subsequently transpired, purported to be an assignment by the plaintiff to the defendant F. G. Taylor of the premises 36, Homefield-road, for consideration of £600. Having obtained that signature, and already being in possession of the title deeds in his capacity of executor, the son shortly afterwards executed a charge in favour of the defendants Barclays Bank, Limited, and deposited the documents as security for moneys advanced by the bank to him. On discovering the nature of the document she had signed the plaintiff instituted the present proceedings to recover possession of the title deeds. The defendant F. G. Taylor did not appear to defend the action, and the issue as raised by the plaintiff and resisted by the defendant bank was whether or not in the circumstances of this case the answer to the allegation that the plaintiff had executed that assignment of the house in favour of the son was that the plaintiff's plea of *non est factum* was a valid and effective plea.

MACNAGHTEN, J., after referring to the relevant authorities, held that the plea of *non est factum* had been made out by the plaintiff. He, his lordship, thought, on the evidence and in the particular circumstances of this case, that the plaintiff had no idea that she was executing a deed at all or that she was dealing with her property at all. He held that the plea of *non est factum* had been made out and that the plaintiff was not bound by the instrument she had signed and was therefore entitled to have the deeds restored to her. There would be an order to that effect.

COUNSEL: *Viscount Erleigh*, K.C., *and M. H. Lush*, for the plaintiff; *W. A. Fearnley Whittingstall*, for the defendants Barclays Bank, Limited.

SOLICITORS: *Edward & Childs*; *Durrant Cooper and Hambling.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Chancery of Lancashire.

Epstein *v.* Lloyd.

Vice-Chancellor Sir Courthope Wilson. 20th March.

MORTGAGES TO AN INFANT—LAW OF PROPERTY ACT, 1925, s. 19 (6)—TRUSTEE ACT, 1925, ss. 44, 46, 51 and 53.

Stella Epstein was born in the year 1923. In the year 1927 a mortgage was granted to her by Lloyd, and Lloyd then granted a second mortgage over the same property to Solomon Cohen. In 1929 a mortgage was granted to Stella Epstein by Wolfman, who subsequently assigned the "equity of redemption" to Hasleton In 1928 a mortgage was granted to Stella Epstein by Myer Cohen. In the case of each of the three mortgages to the infant, the money was advanced by her father, who admittedly intended to make gifts to his daughter, but who did not inform his solicitors of the fact that his daughter was an infant. On that fact being discovered, it was realised that the legal estate could not pass and had not passed to the infant; and, in view of the fact that she would not attain majority for some years, it was further realised that things could not be allowed to remain in their present state till then; difficulties would almost certainly arise if the mortgagors or the persons deriving title under them continued dealing with the equities of redemption, and in addition there was serious doubt as to whether in the meantime anyone could give a valid receipt for principal or even for interest. Under these circumstances an application was made to the court asking in respect of each of the three mortgages—

(*a*) That certain named persons might be appointed to be new trustees in place of the mortgagor (or other person or persons who might be trustee or trustees under the provisions of s. 19 (6) of the Law of Property Act, 1925).

(*b*) That the right to sue for and recover the principal sum secured and interest might be ordered to vest in the new trustees, and that the land mortgaged might be ordered to vest in such trustees for all such estate right and interest therein as might be vested in the infant or in the mortgagor (or other person or persons as aforesaid) in trust for the infant.

(*c*) That the mortgagor might be ordered to execute a new mortgage (Solomon Cohen to join, in the case of the Lloyd mortgage, and Hasleton to join, in the case of the Wolfman mortgage).

All the above-mentioned persons were made parties to the application, and consented to the proposed order.

His Honour made an order as prayed.

COUNSEL: *E. Ackroyd*, for the infant and the proposed new trustees: *W. Geddes*, for the mortgagors, etc.

SOLICITORS for all parties: *William Rudd, Freeman and Getley.*

[Reported by JOHN J. CLARKE, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume.

The Solicitors' Managing Clerks' Association.

MEMORANDUM OF RECOMMENDATIONS BY THE ABOVE ASSOCIATION FOR CONSIDERATION OF LORD HANWORTH'S COMMITTEE.

[We are indebted to the President of The Solicitors' Managing Clerks' Association for permission to reprint the Memorandum. A comment appears at p. 309.]

The Council of this Association has considered the matters that have been referred to Lord Hanworth's Committee, and in view of the letter of the 16th February, 1933, addressed by its secretary, Mr. J. Foster, to this Association interpreting the terms of reference to that Committee, this Council's recommendations are set out below under the headings indicated by Mr. Foster.

In view of the criticisms which have recently been made as to the expense and delay in litigation, the Council desires in the first place to emphasize the fact, that the English system of legal procedure as it exists to-day is regarded with honour and respect throughout the world. Such a system demands a high standard of care, ability and integrity in those who are engaged in it, and it would be regrettable to see that standard lowered by attempts to unduly hasten the preparation of a case for trial and thus deprive one or other of the litigants of a fair hearing. Much of the expense and delay is due to the neglect to use and enforce the existing rules and not to any inherent defect in the system.

It is the experience of the members of this Association that, however expeditious the parties may be in conducting the interlocutory proceedings, the greatest delay takes place after the action has been set down for trial by reason of the insufficiency of the judges available. This, however, does not apply at the moment to actions set down in the Chancery Division.

This Council has carefully considered the interim report of Lord Hanworth's Committee dated the 24th February, 1933, and finds itself in accord with the majority of its recommendations, many of which this Council had already resolved to submit.

It may be considered that some of the recommendations set out below are really matters for the Rule Committee of the Supreme Court, but the Council of this Association has not lost sight of the fact that Lord Hanworth's Committee has interpreted its terms of reference mentioned above to cover "Procedure, i.e., the matters covered by the Rules of the Supreme Court." This Council accordingly submits the following recommendations, and it respectfully further submits that the practice which at one time prevailed of affording this Association an opportunity of considering proposed new rules might usefully be reverted to.

RECOMMENDATIONS.

Procedure.

1. Service of Writs, &c. The essential proceedings followed in the practice under Order 10 should be modified so as to make it a rule relating to substituted service that one attendance only need be made followed by a prepaid letter enclosing acopy of the writ, etc.

2. In claims upon bills of exchange, cheques or promissory notes the plaintiff to be at liberty at his option to file and serve with his writ an affidavit verifying the cause of action, and that in that event, the defendant should only be allowed to enter an appearance upon satisfying the practice master by affidavit within the time limited for appearance that he has a defence to the action, the defendant to serve a copy of such affidavit with his appearance. This is an adaptation of the practice prevailing in the county court with regard to special default summonses.

3. A statement of claim on a specially endorsed writ should contain, as an essential part of it, a statement whether the plaintiff does or does not intend to apply for summary judgment.

The inconveniences of the present practice are apparent to practitioners, so need not be stressed. The question to be decided appears to be whether it would be better to state:—

(1) "The Plaintiff intends to apply for summary judgment" or

(2) "The plaintiff does not intend to apply for summary judgment" or

(3) "The plaintiff does (does not) intend to apply for summary judgment."

No. 3 might lead to mistake especially if the copy of the writ which was served should be accidentally incompleted.

The advantage of a statement to the effect as suggested above would be—

(*a*) A trap would be removed;

(*b*) It would no longer be necessary for the defendant's solicitor when entering an appearance to write and keep open the time for defence;

(*c*) The defendant's solicitor could at once proceed to prepare the defence if an application for judgment was not intended to be made.

4. It has been the experience of members of this Association that Order XIV has been abused by defendants who file an affidavit in opposition to the summons for judgment setting up a defence which falls to the ground upon investigation, the affidavit being filed solely for the purposes of delay:—

Under the present practice the affidavit of the defendant on a summons under Order XIV is handed to the plaintiff's solicitor on the hearing of the summons, and he has no opportunity of consulting his client or of filing any evidence in answer. The Masters are reluctant to grant adjournments for the purpose of allowing the plaintiff to reply, and cases are often sent to trial where a short affidavit by the plaintiff in reply would lead to an order for summary judgment or terms being imposed on the defendant as a condition of obtaining leave to defend.

This council suggests that instead of a return of four clear days on a summons under Order XIV in accordance with the present practice there shall be at least six clear days, and that a defendant wishing leave to defend should be under an obligation to make and supply a copy of his affidavit to the plaintiff or his solicitor within four days of the service of the summons.

This would enable the plaintiff if so advised to reply to the defendant's affidavit in time for the hearing of the summons.

It is pointed out in this connection that extending the return date from four to six clear days, would not occasion any delay as the average return date given at the present time is seven days.

5. [*This recommendation has recently been submitted by this Association to Sir George Bonner at his request.*] That in all actions where proceedings are taken under Order XIV and

the plaintiff obtains judgment with a stay of execution pending the trial of a counter-claim set up by the defendant in such proceedings, the Master hearing the summons to have power to direct that the counter-claim be entered for trial in the Short Cause List.

The existing rules do not permit of a counter-claim only being sent to the Short Cause List, and it so happens that in cases where the claim is admitted and judgment obtained but a stay of execution granted pending the trial of the counter-claim the plaintiff runs a grave risk of losing the fruits of his judgment owing to the delay in the trial of the counter-claim which in some cases has been set up solely for the purpose of delay.

6. The present practice of issuing a summons for directions before pleadings should be discontinued. Such summonses should be issued within seven days after close of pleadings when the issues to be tried would be defined. Useful directions could then be given with regard to place and mode of trial, and an attempt might usefully be made to obtain and give admissions so as to avoid the unnecessary calling of witnesses.

The plaintiff should in every case where a statement of claim is not delivered with the writ, be required to deliver such statement of Claim within fourteen days of the entry of appearance. The defendant to deliver his defence within fourteen days of the delivery of such statement of claim. If the defendant counter-claims, a reply and defence to counter-claim to be delivered in ten days. It is the experience of the members of this Council that it is necessary for the defendant to have at least as long a time for his defence as the plaintiff has for his statement of claim. Lord Hanworth's Committee in its interim report recommended that a defence be delivered within eight days. In most cases it is extremely difficult to do this, and in agency cases practically impossible. In the latter cases the steps are :—

Statement of claim delivered on Monday.
Received in country on Tuesday.
Clients instructions obtained on Wednesday.
Returned to London on Thursday.
Counsel instructed same day.
Counsel drafts defence on Friday.
Received in country on Saturday.
Sent to client for approval same day.
Received by client on Monday and returned same day to country solicitor.
Returned to London on Tuesday.
Delivered if written same day, but if printed then delivered on Wednesday.

The above is a minimum and practically impossible time table, and allows of no time for the defendant or his solicitor to gather together material which may be required to meet the allegations contained in the statement of claim nor for counsel to consider any suggestions made by the client to the document as originally drafted, and presupposes that the solicitors engaged can consider the papers and see the client forthwith and that counsel can take up the papers immediately and settle the pleadings within twenty-four hours after receipt of the papers, and that the client is available for a consultation immediately this draft reaches the country.

7. It is suggested that all actions in the King's Bench Division in which the writ is specially endorsed under Order 3, Rule 6, and in which the amount claimed or the annual rental does not exceed £100 might upon the application of either party be tried by a Master of the King's Bench Division or an Official Referee.

8. Payment into court. The practice with regard to payment into court with defence denying liability under Order 22, Rules 1 and 2, for the payment to be signified in the defence and for the bank receipt for payment in being given on the copy defence for delivery to the plaintiff should be discontinued.

A rule has recently been made in the New Procedure cases that all reference to payment in should be eliminated from the copy pleadings supplied to the judge. In answer to the criticism regarding the practical effect of carrying out this arrangement, appearing in the *Law Times* of 18th February, 1933, any difficulty can be surmounted by a form of notice separate from but delivered with the defence. The notice, being Form No. 3, Appendix B, Part 2, page 1638, of the Annual Practice, 1933, can be adapted and used for this purpose. Reference is made to Rule No. 4, Order 22, to which this practice applies on payment into court before defence.

The only amendment that would appear to be necessary is in Order 22, Rule 2, which should be amended by adding after the words " in the Defence " in the first line the words " except a payment into Court with denial of liability " and a new Rule 2A added.

" 2A. Payment into Court with a Defence denying liability shall be signified by delivering a notice thereof with the Defence, the Bank receipt being endorsed on such notice."

The present practice directions under Rule 1 on page 393 require consequential amendment.

9. The present procedure in the Chancery Division by which cases likely to last more than ten hours are placed in a separate list should be followed in all Divisions.

10. In the Chancery Division great saving of expense would be effected by allowing applications for leave to serve notice of motion with the writ to be made to the Judge in Chambers. It is a matter of doubt whether such applications are at all necessary except where leave to serve short notice is required. A rule might be introduced allowing notice of motion to be served with the writ in the class of case in which leave is at present given by the judge.

11. It is suggested that the practice of filing pleadings, summonses, &c., in default at the Central Office is quite an unnecessary expense, and that production of a certificate of non-appearance is all that is required. Instead of filing a statement of claim in default the plaintiff might be allowed at the expiration of seven days from the time limited for appearance to move for judgment, the notice of motion stating by way of allegation the plaintiff's case.

12. This Council has very carefully considered the question of evidence and admissions and entirely associates itself with paragraph 28 of the Interim Report.

13. That an order for examination of a judgment debtor as to means be made on an *ex parte* application to the Master. The usual result of serving the judgment debtor with a summons for leave to examine is to create delay sufficient to defeat the very object for which leave to examine is required.

14. That motions for judgment in the King's Bench Division be dealt with regularly once a week as in the Chancery Division.

The following suggestions (*a*) (*b*) (*c*) are made with the object of saving the time of counsel and solicitors :—

15. (*a*) King's Bench (Judge in Chambers). That the counsel and non-counsel list of the Judge in Chambers should be divided into periods of fixed times, e.g., *Ex parte* applications 10.30 ; Counsel 10.45, with hourly breaks. Non-Counsel 1 o'clock, with half-hourly breaks, and so on according to the number of summonses or appeals.

(*b*) Divorce and probate summonses before the Judge in Chambers on Mondays. All summonses are issued for 10.30. Counsel or non-counsel and although numbers of these are unopposed they still have to be dealt with by the judge in person. This Council is of the opinion that this list might be similarly arranged as suggested in 15 (*a*).

(*c*) Divorce and probate summonses before Registrars at Somerset House. The regulation of this business causes great inconvenience. Practitioners very often having to wait from 11 to 1 o'clock for a summons to be heard. This is caused by counsel summonses being taken at 11 o'clock and also by the practice of having to allow an opponent half an hour's grace. This also with advantage could be remedied by arranging the list for counsel at 11 o'clock with hourly breaks. Non-counsel 1 o'clock with half-hourly breaks.

16. Some judges to sit continuously through each sittings to try jury and non-jury actions in Middlesex (see Recommendation 23 (3)).

17. Cause lists. Where more than two cases are placed in the list on one day the later cases should be marked not to be taken before a certain hour. This would serve to remove a cause of considerable inconvenience and annoyance to litigants and witnesses and in many cases would effect a saving of expense. It is true that this might occasion some loss of judicial time. This sometimes happens under the present procedure when actions are unexpectedly settled. Loss of time might be minimised if the list stated that witnesses need not attend until a certain hour. It is by no means uncommon for a case to be in the list days before it is reached.

18. Appeals. On matters of practice and procedure this association entirely concurs with the view of the majority as stated in paragraph 23 of the interim report of Lord Hanworth's Committee.

19. That in all revenue cases appeals by the Crown from the decision of the High Court, the subject to be indemnified as to his costs irrespective of the result.

20. Security for costs of an appeal. In all appeals to the Court of Appeal (except in poor persons cases) the applicant before the appeal is entered shall give security for costs of such appeal in the sum of £30 in respect of final appeals, and £15 in respect of interlocutory appeals, with power to increase the amount upon application.

Re-arrangements in the Constitution of the Supreme Court and the Divisions comprised in the High Court.

21. In the opinion of this Council the Probate, Divorce and Admiralty Division should be re-arranged and probate and

divorce work should be transferred to the Chancery Division. The chamber work in connection with divorce largely relates to the custody and maintenance of infants, the variation of settlements, settlements of damages, the allotment of alimony and maintenance, all of which could conveniently be dealt with in the Chancery Chambers subject to the transfer of some of the registrars and part of the staff of the Probate and Divorce Division to the Chancery Division. Taxation of costs should be transferred to the General Taxing Office.

The result of adopting this recommendation would be to leave the Admiralty Division as an independent division. It is suggested that this division should be presided over by a judge with Admiralty and Commercial Court experience who would have practising before him counsel with similar experience. It is therefore suggested that the business of the Commercial Court should be assigned to the Admiralty Division.

22. [*No. 23 has already been submitted by this Association to Mr. J. Foster at his request.*] Alternatively to No. 21. This Council considers it might with advantage be recommended that the Divorce Registry should be transferred to the New Wing of the Law Courts, where the whole probate and divorce business would be consolidated. Much time is wasted by practitioners and officials going to and from Somerset House. Summonses would be dealt with promptly by practitioners if they were in the courts.

Practitioners in probate and divorce have long felt this to be a much needed reform.

Circuit System.

23. This Association considers that it is to the advantage of litigants their witnesses and provincial practitioners that County Assizes should continue and be presided over by judges of the King's Bench Division.

The present system, however, is defective for the following reasons :—

(1) At the present time the circuits are not synchronised with the sittings of the High Court.

(2) At the beginning and at the end of term it frequently happens that practically all the judges of the King's Bench Division are available to try cases in London while at other times London is denuded of judges. This causes confusion and inconvenience both to the practitioner, the litigant and witnesses, in particular :—

(*a*) It is impossible for the practitioner to gauge with any degree of accuracy when a case is likely to be reached in the list.

(*b*) The brief and papers having been delivered to counsel, it frequently happens that owing to the number of judges in London the case is suddenly placed in the Daily Cause List and it is then found that counsel is engaged in more than one court, and the case has then to be conducted by another counsel who has not settled the pleadings, and who has had inadequate time in which to prepare the case. This frequently causes great dissatisfaction to the litigant for which his solicitor or the managing clerk is blamed.

(*c*) Having been put to the inconvenience as indicated in (*b*), it is sometimes found that the judge has to leave for circuit work on the day following, and unless therefore the case is a short one, the judge cannot take it.

(*d*) The case which has been prepared and is ready for trial, not having been reached, may then have to wait weeks before it again appears in the Daily Cause List. The result is that additional expense has of necessity to be incurred.

To remedy these defects this Council recommends :—

(1) That in view of the present facilities for travelling, business on circuit should, as a general rule, be confined to large and convenient centres. Assizes should only be held at such large and convenient centres, the smaller towns being eliminated.

(2) That assizes should be synchronised to commence and end with the sittings of the High Court.

(3) That immediately prior to the commencement of each term certain judges of the King's Bench Division should be assigned to circuit work alone, and the remaining judges should be available for the High Court or the Central Criminal Court throughout the term.

(4) That in the event of the judges assigned to circuit work being of opinion that they are unable to complete the work of assize before the end of the term, then a commissioner should be appointed to assist.

Central Criminal Courts.

Having given the matter careful consideration, this Association does not consider that it can submit any useful recommendations with regard to the Central Criminal Court.

FRANCIS TAYLOR,
President of The Solicitors' Managing Clerks' Association.

12th April, 1933.

Societies.

The Medico-Legal Society.

NEGLIGENCE IN HOSPITAL AND ITS LEGAL CONSEQUENCES.

LORD RIDDELL took the chair at a meeting of this society, held on 27th April, in the Barnes Hall of the Royal Society of Medicine, and Mr. H. C. DICKENS read a paper with this title. After explaining the law of agency he dealt first of all with the responsibility of members of the medical and surgical staff. He said that at first sight the surgeon conducting an operation might seem to have the power to select his assistants and control them so as to make them his agents. It was, however, doubtful whether his responsibility extended so far. In the words of Lord Westbury (*Daniels* v. *Metropolitan Railway*, L.R. 5 H.L. 61), "The ordinary business of life could not go on if we had not a right to rely upon things being properly done when we have committed and entrusted them to persons whose duty it is to do things of that nature, and who are selected for the performance with prudence and care as being experienced in the matter, and who are held responsible for the execution of the work." The complicated technique of an abdominal operation could only be efficiently carried out by the united but independent functioning of the members of a team. The practice by which the surgeon delegated to an experienced nurse the task of counting the instruments and dressings, in order that none might be left in the body, was a perfectly reasonable one and in the best interests of the patient. The Supreme Court of South Africa, in *Van Wyk* v. *Lewis* [1926] S.A. (A.D.) 438, had emphatically expressed the view that a surgeon in such a case was not responsible. Mr. Dickens hoped that the courts of this country would endorse the reasoning of the South African judges. On the other hand, he considered it possible that a surgeon who left a subordinate to complete an operation might be held responsible for the negligence of the latter. Similarly, he suggested that the physician or surgeon might be held responsible for assuring himself that the patient had given his consent to an operation or to some novel or dangerous treatment.

Turning to the responsibility of the hospital governors for the negligence of members of their staffs, Mr. Dickens quoted the judgment of Lord Justice Kennedy in *Hillyer* v. *St. Bartholomew's Hospital* [1909] 2 K.B. 820, in which the liability of the governors was limited to providing skilled medical practitioners and nurses, and declared that the hospital was not responsible if members of its professional staff, of whose competence there was no question, acted negligently in some matter of professional care or skill. Nevertheless, he said, hospitals had been held liable for the negligence of nurses in two recent Canadian cases : *Nyberg* v. *Provost Municipal Hospital Board* [1927] 1 D.L.R. 969, and *Harkies* v. *Lord Dufferin Hospital* [1931] 2 D.L.R. 440. Lord Justice Kennedy had not regarded a hospital as charged with the duty of nursing the patient ; he had, however, regarded it as responsible for the due performance by its servants of their purely ministerial or administrative duties.

The hospital authorities were, he said, bound to procure their electrical and other technical apparatus under expert advice and from recognised and qualified suppliers, and to keep it under expert supervision in a safe state of repair. They could not be held responsible for hidden defects, but might, considered the lecturer, be liable for injury resulting from a defect which should have been evident on examination, or from mis-assembly of the parts of the machine. In conclusion, Mr. Dickens advised all hospitals and nursing homes to insure against their legal risks, a precaution taken by practically all medical practitioners. He suggested that they should get themselves brought within the scheme of insurance of one of the large medical defence societies, which understood the risks, were best fitted to fix reasonable premiums, and best qualified to conduct defence.

Mr. OSWALD HEMPSON, solicitor to the British Medical Association, remarked that the judgments in *Hillyer's Case* consisted largely of *obiter dicta*. It might be inferred from Lord Justice Farwell's words that the hospital was not liable for the negligence of its nurses, even in the performance of administrative duties. The case of *Hall* v. *Lees* [1904] 2 K.B. 602, suggested that a nursing co-operation which undertook only to supply nurses was not liable for isolated acts of negligence, whereas a nursing home, which undertook to nurse the patient, was so liable. Hospitals treating patients gratuitously were probably in the position of a nursing co-operation ; if they charged a fee they might assume a greater risk, but never one so great as that of a nursing home, for they would never hold themselves out as treating nor nursing their patients for the fee paid, which was merely by way of a contribution to their funds.

Mr. D. H. KITCHIN doubted whether the rule of law laid down by the South African judges in *Van Wyk's Case* would ever be applied in England. In his summing-up in *Crotch* v. *Miles*, *The Lancet* (1930), i, 643, 707, the Lord Chief Justice had directed the jury to decide whether, on the facts and on the eminent opinions they had heard concerning custom and expedience, they considered that the surgeon had been guilty of negligence in relying on the theatre-sister to count the instruments after the operation. His Lordship had suggested that, whereas the surgeon might reasonably have to concentrate his attention on the patient during the actual surgery, he might find time at the close of the operation to count the instruments. Probably both the hospital and the qualified medical staff were responsible for injury done by the negligence of students learning their profession, but their liability should be limited to ensuring that no student was given a task beyond his competence. When paying patients realised that hospitals were not liable for the negligence of their staff in professional matters, they might feel a general dissatisfaction which would do the hospitals financial harm.

Mr. C. E. BEDWELL and Mr. BURLEIGH, secretaries of voluntary hospitals, agreed that the payment of a fee might render patients more critical of the hospital's services and more ready to sue it. If patients knew that there was an insurance company behind the hospital, moreover, they would be less reluctant to take action. THE PRESIDENT, however, thought that, considering the enormous numbers of patients who entered hospital, claims were surprisingly few.

Gray's Inn.

GRAND DAY.

Tuesday, the 2nd of May, being the Grand Day of Easter Term at Gray's Inn, the Treasurer (Sir Walter Greaves-Lord, K.C., M.P.), and the Masters of the Bench, entertained at dinner the following guests: The Right Hon. The Earl of Derby, K.C., G.C.B., G.C.V.O., The Right Hon. Lord Ampthill, G.C.I.E., G.C.S.I., The Right Hon. Sir E. Hilton Young, G.B.E., D.S.O., D.S.C., M.P., The Right Hon. J. C. C. Davidson, C.H., C.B., M.P., The Hon. Mr. Justice Horridge, The Hon. Mr. Justice Hawke, The Treasurer of the Hon. Society of the Inner Temple (Sir William Hansell, K.C.), The Hon. Sir Francis Taylor, G.B.E., K.C., The President of the Institution of Civil Engineers (Sir Murdoch MacDonald, K.C.M.G., C.B., M.P.), The Astronomer-Royal (Dr. H. Spencer-Jones, F.R.S.), The Master of Clare College, Cambridge (Mr. G. H. A. Wilson, O.B.E., M.P.), The Town Clerk of Manchester (Mr. F. E. Warbreck Howell), Mr. Bernard Darwin.

The Benchers present in addition to the Treasurer were: The Right Hon. Sir Dunbar Plunket Barton, Bart., K.C., The Right Hon. Lord Merrivale, Mr. Edward Clayton, K.C., The Right Hon. Lord Atkin, Sir Montagu Sharpe, K.C., Sir Alexander Wood Renton, G.C.M.G., K.C., Sir Cecil Walsh, K.C., Mr. R. E. Dummett, The Right Hon. Lord Thankerton, The Right Hon. Lord Greenwood, K.C., The Hon. Vice-Chancellor, Sir Courthope Wilson, K.C., The Right Hon. Lord Morison, Mr. J. W. Ross-Brown, K.C., Mr. R. Storry Deans, Mr. A. Andrewes Uthwatt, Mr. Noel Middleton, Mr. Harold Derbyshire, M.C., K.C., Sir Albion Richardson, C.B.E., K.C., with the Preacher (The Rev. Canon F. B. Ottley, M.A.), and the Under-Treasurer (Mr. D. W. Douthwaite).

The Hardwicke Society.

An ordinary meeting of the Society was held in the Middle Temple Common Room on Friday, 28th April. The President, Mr. Vyvyan Adams, M.P., took the chair at 8.30 p.m. In public business Mr. T. H. Mayers moved "That This House approves of the Budget." Mr. A. H. Bray opposed. There spoke to the motion: Mr. Menzies, Mr. Symonds, Mr. Walter Stewart, Mr. Llewellyn Thomas, Mr. Boyd-Carpenter, Mr. Granville Sharp (ex-President), Mr. Bucher, Mr. MacColl, Mr. Stride (Hon. Secretary), Prince Lieven, Mr. Newman Hall (Hon. Treasurer), and the hon. proposer in reply. On a division the motion was won by one vote.

Auctioneers' and Estate Agents' Institute.

The annual general meeting of the Auctioneers' and Estate Agents' Institute of the United Kingdom will be held at The Institute, 29, Lincoln's Inn Fields, London, on Thursday, 11th May, at 3 o'clock in the afternoon, to receive the report of the Council and the accounts; to elect members of council, to appoint auditors, and to transact the ordinary business of the Institute.

In the Professional Examinations of the Institute, held in March last, the total number of candidates examined was 755, of which number 428 passed, being a percentage of 56·6. Mr. S. G. N. Mitchell, of Carlton, Notts, obtained the Gold Medal of the Institute, and Mr. J. T. Bradley, of Brackley, Northamptonshire, obtained the Silver Medal of the Institute.

Parliamentary News.

Progress of Bills.

House of Lords.

Blind Voters Bill.	
Read First Time.	[2nd May.
Bridlington Corporation Bill.	
Read First Time.	[2nd May.
Colne Corporation Bill.	
Read Third Time.	[2nd May.
Dover Harbour Bill.	
Read Third Time.	[2nd May.
Education (Necessity of Schools) Bill.	
Read Third Time.	[3rd May.
Electricity (Supply) Bill.	
Read Second Time.	[3rd May.
Government of India (Amendment) Bill.	
Read First Time.	[2nd May.
Great Western Railway Bill.	
Read Second Time.	[2nd May.
Housing (Financial Provisions) (Scotland) Bill.	
In Committee.	[3rd May.
Local Government Bill.	
Read First Time.	[2nd May.
London and North Eastern Railway Bill.	
Read Second Time.	[2nd May.
Ministry of Health Provisional Order Confirmation (Chepping Wycombe) Bill.	
Read First Time.	[3rd May.
Ministry of Health Provisional Order Confirmation (Luton Water) Bill.	
Read First Time.	[3rd May.
Ministry of Health Provisional Order Confirmation (Mid-Glamorgan Water Board) Bill.	
Read First Time.	[3rd May.
Ministry of Health Provisional Order Confirmation(Wrexham and East Denbighshire Water) Bill.	
Read First Time.	[3rd May.
Ministry of Health Provisional Orders Confirmation(Maidstone and Stockton-on-Tees) Bill.	
Read First Time.	[3rd May.
Ministry of Health Provisional Order (Torquay) Bill.	
Read Second Time.	[3rd May.
Norwich Corporation Bill.	
Read Second Time.	[2nd May.
Rubber Industry Bill.	
Read First Time.	[2nd May.
Rugby Corporation Bill.	
Read Third Time.	[2nd May.
Staffordshire and Worcestershire Canal Bill.	
Read Second Time.	[2nd May.
Universities Spurious Degrees (Prohibition of use and issue) Bill.	
Read First Time.	[3rd May.
Wimbledon Corporation Bill.	
Read Third Time.	[2nd May.
Worksop Corporation Bill.	
Read Third Time.	[2nd May.

House of Commons.

Blind Voters Bill.	
Read Third Time.	[27th April.
Bridlington Corporation Bill.	
Read Third Time.	[28th April.
Colne Corporation Bill.	
Read First Time.	[2nd May.
Commercial Gas Bill.	
Reported, with Amendment.	[3rd May.
Dewsbury Corporation Bill.	
Reported, with Amendments.	[3rd May.
Dover Harbour Bill.	
Read First Time.	[2nd May.
Housing (Financial Provisions) Bill.	
Lords Amendments Considered.	[27th April.
Jesus Hospital in Chipping Barnet Charity Bill.	
Read Second Time.	[3rd May.

Leeds Corporation Tramways Provisional Order Bill.
Read First Time. [3rd May.
London County Council (General Powers) Bill.
Reported, with Amendments. [1st May.
London Overground Wires, &c., Bill.
Read Second Time. [1st May.
Ministry of Health Provisional Orders (Bath and Bury and District Joint Water Board) Bill.
Reported, without Amendment. [3rd May.
Oxford Corporation Bill.
Read Second Time. [1st May.
Protection of Animals Bill.
Read Third Time. [3rd May.
Road and Rail Traffic Bill.
Read Second Time. [3rd May.
Rugby Corporation Bill.
Read First Time. [2nd May.
St. Helens Corporation Bill.
Reported, with Amendments. [2nd May.
South Suburban Gas Bill.
Read Second Time. [1st May.
Wimbledon Corporation Bill.
Read First Time. [2nd May.
Worksop Corporation Bill.
Read First Time. [2nd May.

Legal Notes and News.

Honours and Appointments.

The Lord Chancellor has appointed Mr. HOWEL WALTER SAMUEL, K.C., to be the Judge of the County Courts on Circuit No. 28 (Mid-Wales) in the place of His Honour Judge Ivor Bowen, K.C., who has retired. Mr. Samuel was called to the Bar by the Middle Temple in 1915, and was made K.C. in 1931. He has been Recorder of Merthyr Tydfil since 1930.

Professional Announcements.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

GENERAL COUNCIL OF THE BAR.

The General Council of the Bar, upon consideration of the recent interim report of the Business of the Courts Committee, of which Lord Hanworth, Master of the Rolls, is chairman, has passed the following resolution:—

"This Council views with apprehension the proposed abrogation of the right of trial by jury in civil actions as being against the public interest, and is of opinion that no curtailment of such rights should be effected except by Act of Parliament."

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.		EMERGENCY ROTA.	APPEAL COURT No. I.	GROUP I. MR. JUSTICE EVE. Witness. Part I.	GROUP I. MR. JUSTICE MAUGHAM. Non-witness
		Mr.	Mr.	Mr.	Mr.
May	8	Hicks Beach	Ritchie	*Blaker	Jones
,,	9	Andrews	Blaker	*Jones	Hicks Beach
,,	10	Jones	More	*Hicks Beach	Blaker
,,	11	Ritchie	Hicks Beach	Blaker	Jones
,,	12	Blaker	Andrews	*Jones	Hicks Beach
,,	13	More	Jones	Hicks Beach	Blaker

		GROUP I. MR. JUSTICE BENNETT. Witness. Part II.	MR. JUSTICE CLAUSON. Non-Witness.	GROUP II. MR. JUSTICE LUXMOORE. Witness. Part II.	MR. JUSTICE FARWELL. Witness. Part I.
		Mr.	Mr.	Mr.	Mr.
May	8	*Hicks Beach	More	Ritchie	*Andrews
,,	9	Blaker	Ritchie	*Andrews	*More
,,	10	*Jones	Andrews	More	*Ritchie
,,	11	Hicks Beach	More	*Ritchie	*Andrews
,,	12	*Blaker	Ritchie	Andrews	More
,,	13	Jones	Andrews	More	Ritchie

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 11th May, 1933.

	Div. Months.	Middle Price 3 May 1933.	Flat Interest Yield. £ s. d	†Approximate Yield with redemption £ s. d
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	110	3 12 9	3 7 8
Consols 2½%	JAJO	75	3 6 8	—
War Loan 3½% 1952 or after	JD	100½xd	3 9 8	3 9 3
Funding 4% Loan 1960-90	MN	110¼	3 12 5	3 8 0
Victory 4% Loan (Available for Estate Duty at par) Av. life 29 years	MS	110	3 12 9	3 9 0
Conversion 5% Loan 1944-64	MN	116½	4 5 10	3 4 0
Conversion 4½% Loan 1940-44	JJ	111½	4 0 9	2 13 7
Conversion 3½% Loan 1961 or after	AO	101	3 9 4	3 8 11
Conversion 3% Loan 1948-53	MS	98½	3 0 11	3 2 0
Conversion 2½% Loan 1944-49	AO	94½	2 13 0	2 19 2
Local Loans 3% Stock 1912 or after	JAJO	87½	3 8 7	—
Bank Stock	AO	329½	3 12 10	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	79	3 9 7	—
India 4½% 1950-55	MN	107xd	4 4 1	3 18 6
India 3½% 1931 or after	JAJO	86	4 1 5	—
India 3% 1948 or after	JAJO	74	4 1 1	—
Sudan 4½% 1939-73	FA	111	4 1 1	2 6 7
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 8 0
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	100	3 0 0	3 0 0
COLONIAL SECURITIES				
*Australia (Commonw'th) 5% 1945-75	JJ	107	4 13 5	4 4 9
*Canada 3½% 1930-50	JJ	100	3 10 0	3 10 0
*Cape of Good Hope 3½% 1929-49	JJ	101	3 9 4	—
Natal 3% 1929-49	JJ	96	3 2 6	3 6 5
New South Wales 3½% 1930-50	JJ	96	3 12 11	3 16 5
*New South Wales 5% 1945-65	JD	105xd	4 15 3	4 9 9
*New Zealand 4½% 1948-58	MS	107	4 4 1	3 17 6
*New Zealand 5% 1946	JJ	110	4 10 11	4 0 0
*Queensland 4% 1940-50	AO	100	4 0 0	4 0 0
*South Africa 5% 1945-75	JJ	112	4 9 3	3 14 9
*South Australia 5% 1945-75	JJ	108	4 12 7	4 2 9
*Tasmania 3½% 1920-40	JJ	100	3 10 0	3 10 0
Victoria 3½% 1929-49	AO	96	3 12 11	3 16 10
*W. Australia 4% 1942-62	JJ	101	3 19 2	3 17 2
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	87	3 9 0	—
Birmingham 4½% 1948-68	AO	114	3 18 11	3 6 0
*Cardiff 5% 1945-65	MS	110	4 10 11	3 18 9
Croydon 3% 1940-60	AO	93	3 4 6	3 8 0
*Hastings 5% 1947-67	AO	114	4 7 9	3 14 0
Hull 3½% 1925-55	FA	99	3 10 8	3 11 4
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	100	3 10 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	72½xd	3 9 0	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	86½xd	3 9 4	—
Manchester 3% 1941 or after	FA	87	3 9 0	—
Metropolitan Consd. 2½% 1920-49	MJSD	94xd	2 13 2	2 19 7
Metropolitan Water Board 3% "A" 1963-2003	AO	89	3 7 5	3 8 4
Do. do. 3% "B" 1934-2003	MS	90	3 6 8	3 7 6
Do. do. 3% "E" 1953-73	JJ	94	3 3 10	3 5 5
*Middlesex C.C. 3½% 1927-47	FA	101	3 9 4	—
Do. do. 4½% 1950-70	MN	113	3 19 8	3 9 6
Nottingham 3% Irredeemable	MN	86	3 9 9	—
*Stockton 5% 1946-66	JJ	113	4 8 6	3 14 4
ENGLISH RAILWAY PRIOR CHARGES				
Gt. Western Rly. 4% Debenture	JJ	102½	3 18 1	—
Gt. Western Rly. 5% Rent Charge	FA	115½	4 6 7	—
Gt. Western Rly. 5% Preference	MA	76½	6 10 9	—
‡L. & N.E. Rly. 4% Debenture	JJ	84½	4 14 8	—
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	67¼	5 18 6	—
London Electric 4% Debenture	JJ	103½	3 17 4	—
‡L. Mid. & Scot. Rly. 4% Debenture	JJ	94½	4 4 8	—
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	78¼	5 1 11	—
Southern Rly. 4% Debenture	JJ	102½	3 18 1	—
Southern Rly. 5% Guaranteed	MA	108¼	4 12 2	—
Southern Rly. 5% Preference	MA	85½	5 17 0	—

*Not available to Trustees over par.
†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.
‡These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Companies' Ordinary Stocks for the past year.

33

ain

Stock

pproxi- te Yield with emption	
s.	d.
7	8
—	
9	3
8	0
9	0
4	0
13	7
8	11
2	0
19	2
—	
—	
—	
18	6
—	
—	
6	7
8	0
0	0
4	9
10	0
—	
6	5
16	5
9	9
17	6
0	0
0	0
14	9
2	9
10	0
16	10
17	2
—	
6	0
18	9
8	0
14	0
11	4
—	
—	
—	
—	
19	7
8	4
7	6
5	5
—	
9	6
—	
14	4
—	
—	
—	
—	
—	
—	
—	
—	
—	
—	

lculated

ustee or
y Stocks